

COUNCIL COMING ATTRACTIONS



Week of Jan. 30, 2017

Zoning Changes for Historic Buildings, Spending Affordability Guidelines, School Construction Costs, and Fossil Fuel Investment Restrictions




Council Coming Attractions is a summary of some of the issues before the Council. All Council staff reports and additional information on each item scheduled for Council or Committee review can be viewed at: <http://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html>.

Also the Council meeting schedule may change from time to time. The current Council and Committee agendas can also be viewed at: <http://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html>.

On Jan. 31 at 12:45 a.m. the Council will begin with an interview of the County Executive's appointment to the Housing Opportunities Commission (HOC): Edgar Rodriguez. No proclamation presentations are scheduled.

COUNCIL

-  Supplemental Appropriation to the County Government's FY17 Operating Budget, State's Attorney's Office - \$271,872 for Victims of Crime Act Victim Services Program
The Council is scheduled to hold a public hearing and vote on a \$271,872 supplemental appropriation for the Victims of Crime Act (VOCA) Victim Services Program. The PS Committee recommends approval. The staff report can be viewed at: http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5009&meta_id=130680.
The appropriation would fund a bilingual victim-witness coordinator and a bilingual victim services specialist. This increase is needed because the State's Attorney's Office received a two-

year grant award to increase victim services from the Governor's Office of Crime Control and Prevention.



**Supplemental appropriation to the County Government's FY17 Operating Budget,
Department of Transportation-\$40,608 for Replacement of Roadside Trees**

The Council is scheduled to hold a public hearing and vote on \$40,608 for the replacement of roadside trees as required by Bill 41-12, Streets and Roads-Roadside Tree Protection. The source of funds is the Street Tree Planting Fund. This increase is needed to authorize the expenditure of funds received during FY16. These funds were not previously appropriated because revenue levels were uncertain. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5009&meta_id=130686 .



Zoning Text Amendment 16-21, Exemptions-Public Historic Buildings

The Council is scheduled to vote on ZTA 16-21. The PHED Committee (3-0) recommends approval with an amendment. The Committee believes the opportunity to exclude historic buildings from zoning use and development standards should apply to all publicly owned property, not just County owned property. Council President Berliner is the lead sponsor of the ZTA, at the request of the County Executive. As introduced ZTA 16-21 would exempt historic buildings located on County property from the use and development standards of the zoning code.

The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5009&meta_id=130683 .

Although the provisions of ZTA 16-21 would apply to all similarly situated historic buildings, this ZTA would specifically allow for the relocation of the historic CP & H Store that is currently adjacent to the APEX Building at 7250 Wisconsin Avenue. The CP & H Store is being relocated to accommodate the demolition of the APEX Building for the Purple Line.

COMMITTEE



Spending Affordability Guidelines for the FY18 Capital Budget and General CIP Assumptions

On Jan. 20 at 10:30 a.m. the GO Committee will meet to review the Spending Affordability Guidelines for the FY18 Capital Budget and CIP assumptions heading into the FY18 budget cycle. The Committee will prepare its recommendations for the Council's Feb. 7 review, which is the deadline for the Council to either confirm or amend the guidelines. Any February revision is supposed to "reflect a significant change in conditions" regarding affordability, and not take need into account. After Feb. 7 the Council can adopt an aggregate capital budget that has expenditures that exceed the guidelines, but only with seven or more affirmative votes. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5225&meta_id=130590 .



Bill 48-16, Credit to Offset Certain Income Tax Revenues – Amendments

The GO Committee will review Bill 48-16. The lead sponsors are Councilmembers Navarro, Katz and Riemer. Bill 48-16 would clarify the eligibility for the property tax credit to offset certain income tax revenues. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5225&meta_id=130592 .

- The GO Committee requested that staff draft legislation that would clarify that a property owner did not need to qualify for the State Homestead Tax Credit to be eligible for the County's Property Tax Credit for Income Tax Offset or ITOC.
- Bill 48-16 would clarify the County's interpretation of the current law and remove any ambiguity that has arisen since the State began requiring a property owner to apply for the State Homestead Tax Credit.



Bill 50-16, Elections – Special Elections – Executive Vacancy

The Committee also will review Bill 50-16. Councilmember Leventhal is the lead sponsor. Bill 50-16 would require a special election to fill a vacancy in the Office of the Executive that occurs before December 1 of the year before a year in which a quadrennial State election will be held. The procedures for the special election would be the same as a special election to fill a Council vacancy.

The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5225&meta_id=130594 .



Zoning Text Amendment 16-19, Gross Floor Area-Mechanical Equipment

On Jan. 30 at 2 p.m. the PHED Committee will review ZTA 16-19. The lead sponsor is Councilmember Floreen. ZTA 16-19 would exclude from the calculation of gross floor area space exclusively used for mechanical equipment for any Medical/Scientific Manufacturing and Production use. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5227&meta_id=130596 .

- Currently the floor area used for mechanical equipment is excluded from the calculation of gross floor area in the Life Science Center (LSC) and Industrial zones. This exclusion applies to any use in those zones.
- Medical/Scientific Manufacturing and Production may include an inordinate amount of mechanical equipment space in a building. A Medical/Scientific Manufacturing and Production use is allowed in the Commercial Residential (CR), Life Science Center (LSC), Employment Office (EOF) and Industrial zones.
- ZTA 16-19 would exclude the floor area used for mechanical equipment needed for Medical/Scientific Manufacturing and Production in any zone in which the use is allowed.



Zoning Text Amendments 16-16, Conditional Use Decisions

The Committee will review ZTA 16-16. Councilmember Floreen is the lead sponsor at the request of the Hearing Examiner, who believes that the current provisions for appeals of conditional use decisions is causing confusion on who may appeal a decision. In the Hearing Examiner's opinion, the current code provisions allow unintended delays in reaching a final decision. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5227&meta_id=130598 .

ZTA 16-16 would:

- Amend provisions governing the Office of Zoning and Administrative Hearings' (OZAH) decisions in conditional use cases.
- Amend provisions governing requests for oral argument before the Board of Appeals in conditional use cases.
- Permit applicants for conditional uses approved by the Hearing Examiner to implement a conditional use when a request for oral argument before the Board of Appeals is pending.
- Authorize the Board of Appeals to stay the Hearing Examiner's decision with a motion.
- Authorize the Board of Appeals to place conditions on the approval or denial of requests for a stay.
- Amend provisions concerning conditional use appeals.



Zoning Text Amendment 16-18, Sandy Spring/Ashton Rural Village Overlay Zone-Standards

The Committee will review ZTA 16-18. The lead sponsor is Councilmember Navarro. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5227&meta_id=130600 .

ZTA 16-18 would lower the minimum size lot for townhouses and duplex buildings. The maximum allowable building height would be increased by five feet with a Planning Board finding of compatibility in the site plan process.

- Currently the minimum lot size in the Sandy Spring/Ashton Rural Village Overlay zone is 3,000 square feet for all buildings.
- In the opinion of the sponsor, the minimum lot size limit is appropriate for single-family detached buildings but could be excessive for townhouses and duplexes. ZTA 16-17 would allow a minimum lot size of 900 square feet and 2,000 square feet, respectively, for those uses.



Zoning Text Amendment 16-15, Facility for Senior and Disabled-Standards

The Committee will close out the meeting with a review of ZTA 16-15. Councilmember Floreen is the lead sponsor, at the request of the Housing Opportunities Commission (HOC). The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5227&meta_id=130602.

ZTA 16-15 would separate and revise the standards for senior and disabled independent living facilities and generally amend the provisions for senior and disabled independent living facilities.

- The current provisions for describing who may live in independent living facilities for seniors and disabled persons is no longer in alignment with federal Fair Housing Act regulations. ZTA 16-15 is intended to correct this problem.



Process for Receiving Updates on MCPS Audits

On Jan. 30 at 2 p.m. the ED Committee will meet with Montgomery County Public Schools (MCPS) staff to discuss the process for receiving updates on audits. MCPS undergoes a variety of federal and state audits, maintains an Internal Audit Unit that conducts financial and program audits and is subject to reports and studies by the County Office of the Inspector General and the Council's Office of Legislative Oversight. Committee members have expressed an interest in receiving regular updates on the various audits conducted on MCPS operations and expenditures, and they will discuss a proposed review process. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5228&meta_id=130605.



MCPS Quarterly Financial Report

The Committee will continue its quarterly review of MCPS financial status reports by reviewing actual revenue and expenditures to date and projections through the end of the fiscal year. The financial report will include a discussion of the projected year-end fund balance, projected variations in each State-mandated funding category and MCPS' group insurance trust funds.

The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5228&meta_id=130607.



OLO Report 2017-4, New School Construction Costs

The Committee will close out the meeting with a briefing by OLO and MCPS staff on new school construction costs. OLO Report 2017-4 responds to the Council's request to compare school construction costs in the County with other counties in Maryland and Virginia. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=5228&meta_id=130609.

The full report can be viewed at:

<http://www.montgomerycountymd.gov/OLO/Resources/Files/2017%20Reports/OLO%20Report%202017-4%20New%20School%20Construction%20Costs.pdf>.

Some of OLO findings are as follows:

- OLO finds that MCPS' construction costs per square foot increased by 19 percent from fiscal year 2008 through fiscal year 2015. The national average is 18 percent.
- Square foot cost comparisons, alone, fail to identify the root causes of construction cost differences, which are significantly impacted by policies and regulations.
- The Maryland General Assembly established the Public School Construction Program in 1971 to provide a standard process for allocating State aid for school construction projects.

Historically, MCPS has received \$30 to \$40 million annually in State aid for all eligible MCPS capital projects.

- For FY17, MCPS received \$50.1 million in State construction aid (\$38.4 million in regular school construction funding and \$11.7 million in funding from the Capital Grant Program for Local School Systems with Significant Enrollment Growth (or ERGC)).
- In regard to new and replacement schools, State construction aid is limited to defined eligible costs based on square foot and capacity allowances, which is then reduced by a cost share formula based on a county's wealth. For FY17, MCPS received 50 percent of total eligible costs per project. All ineligible costs are paid for by the counties. On average, MCPS receives State aid to fund 15 percent of the total cost of a new school and 20 percent of the total cost of a replacement school. As a result, local funds (i.e., General Obligation Bonds, current revenue, and Recordation and Impact Tax revenues), pay for 80 to 85 percent of new and replacement school projects.
- National school construction costs per square foot have increased 18 percent from \$179 per square foot (CY08) to \$212 per square foot (CY14). While regional cost data reveals cost increases of 25 percent over the same time period,
- MCPS costs per square foot trends have tracked the national average, increasing by 19 percent from fiscal year 2008 to fiscal year 2015. Increasing construction costs coupled with projected enrollment growth affect the ability of MCPS to address capital needs.
- Comparisons of school construction costs data are most meaningful when each school is constructed to the same specifications and in the same environment. However, school construction costs are driven by interrelated State and local policies and practices, school design choices and market conditions that vary over time and across school districts.

➤ OLO staff suggests that the Committee discuss the following questions with MCPS representatives.

- What amendments to State regulations could the Council and MCPS pursue that might result in reduced construction costs?
- Should the County propose amendments to the State aid construction formula to account for variations in school system policies, such as class size reduction? What impact would this have on funding?
- Should the Council request additional information and data regarding the financial impact of County stormwater management regulations on school construction costs?
- In addition to stormwater management regulations, are there other opportunities to align County and State regulatory requirements that could result in school construction cost reductions?
- As it is the County's policy to use school buildings as year round community facilities, how should the County measure its school construction costs relative to other jurisdictions that use school facilities differently?
- Are there opportunities to adjust school building size and site requirements to reduce total construction costs?
- Would the increased use of prototype school building designs for new and replacement schools, as implemented by other school systems, allow MCPS to build schools at a faster rate, for lower cost and provide equity of school buildings County-wide?
- Could project schedules and timelines be reduced through a review of policies and practices such as community involvement in the design process?
- Are there opportunities for the Council to promote programs or policies that could enhance competition and promote growth in the construction labor market in the County?



Bill 44-16, Retirement –Fossil Fuel Investments – Restrictions

On Feb. 2 at 9:30 a.m. the GO and T&E Committees will meet jointly to review Bill 44-16. The lead sponsors are Council President Berliner and Councilmember Navarro. Councilmember Elrich is a cosponsor. The staff report will be available on Jan. 31.

Bill 44-16 would restrict the Board of Investment Trustees and the Consolidated Retiree Health Benefits Trust Board of Trustees from investing in certain businesses holding the largest amount of fossil fuel reserves under certain circumstances. The Bill also would also require a socially responsible policy for investing.

- Bill 44-16 would require the Boards to divest in these companies gradually over the next five years and permits the Boards to delay the sale of any individual security if necessary based on their fiduciary duties.
- The Board of Investment Trustees has approximately \$65 million worth of holdings in the Carbon Underground 200, which is a list of fossil fuel companies ranked by their potential carbon emissions.



Resource Recovery Facility Fire

On Feb. 2 at 2 p.m. the T&E and PS Committees will meet jointly for a briefing on the fire at the County's Resource Recovery Facility. On Dec. 8, 2016, hundreds of County firefighters responded to a two-alarm fire inside the County's incinerator plant, which is located two miles southwest of Dickerson. The staff report will be available on Jan. 31.

- While the fire was contained quickly, it continued to smolder and smoke for nearly two weeks as firefighters worked to clear the area of burning debris.
- During the incident, the County restricted trash drop-offs at its Solid Waste Transfer Station to single-family residential waste only. This waste was then transferred to alternative locations for disposal. The County assisted haulers in finding locations that would accept their non-residential waste.
- The County's Resource Recovery Facility is 20 years old and burns approximately 1,600 tons of waste per day. It is operated for the County by a private company and can burn up to 689,000 tons of commercial and residential waste annually. Three industrial furnaces heat the waste and help convert it into electricity.
- According to *The Washington Post*, records show 105 days of unscheduled outages at the Resource Recovery Facility between March and October of 2016. Shutdowns in December and in July of 2016 forced the County to find other destinations for about 55,000 tons of trash.